Planning for Security Assistance

---A Review---

Security Assistance

Legislation and Policy

International Statutory and Regulatory Framework and

Lesson Overview

- **General Constitutional/Legislative Authorities**
- **U.S. Foreign Policy and the CATP**
- **Sanction Authorities**
- **Congressional Notification Requirements**
- **Weapons-Specific Restrictions**
- **Crisis Action Authorities**
- **Excess Defense Articles**

Constitutional Authorities for Military Assistance

"The Congress shall have power to regulate commerce with foreign Nations..." **[§8, Article I]**

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the... property belonging to the United States..." **[§3, Article IV]**

"No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law..." **[§9, Article I]**

Security Assistance Legislation

- **Arms Export Control Act (AECA) (22 U.S.C. §2751 et seq.)**
- **Foreign Assistance Act (FAA) (22 U.S.C. §2151 et seq.)**
- **Foreign Assistance Authorization Acts**
- **Foreign Assistance Appropriations Acts (P.L.106-113)**

Other Sources of Security Assistance Legislation

- Foreign Relations Authorization Act
- Commerce, Justice, State, and Judiciary Appropriations Act
- International Narcotics Control Act (INCA)
- National Defense Authorization Act
- Defense Appropriations Act
- FREEDOM Support Act (FSA) [for the FSU]
- Support of East Eur. Democracy (SEED) Act
- Emergency or Supplemental Funding Act
- Continuing Resolutions (CRs)

Foreign & National Security Policy Objectives

- **Congress recognizes … that Countries … have valid (defense) requirements …**
- **To this end, … [§1, AECA] … authorizes sales … (when) consistent with the Foreign Policy interests of the United States**

U.S. International Affairs Goals

- **Protect vital interests, secure peace...**
- **Expand exports, promote development...**
- **Protect U.S. citizens abroad...**
- **Combat terrorism, crime, narcotics...**
- **Support democracies, human rights...**
- **Provide humanitarian assistance...**
- **Improve global environment...**

Source: FY 2000 Congressional Presentation for Foreign O

U.S. Conventional Arms Transfer Policy

- **Arms transfers continue to be a legitimate instrument of U.S. foreign policy**
- **They are deserving of U.S. Government support when they:**
  - **Help allies and friends to deter aggression**
  - **Promote regional security, and**
  - **Increase interoperability among allies.**

PDD 34, 17 Feb 95

Supporting U.S. Transfers

- **Decisions will be made on a case-by-case basis**
- **Country team may support of U.S. overseas marketing efforts**
- **Active involvement by senior USG officials in promoting sales of particular importance to the U.S.**
- **Support of international air and trade shows when determined to be in the best interest of the U.S.**

PDD 34, 17 Feb 95

Authorities for FMS

§21(a)(1), AECA - Sales from Stock

"The President may sell defense articles and defense services from the stocks of the [DoD] to any eligible country..."

§22(a), AECA - Procurement for Cash Sale

"The President may enter into contract for the procurement of defense articles or defense services for sale...to any foreign country..."

§23(a), AECA - Credit Sales

"The President is authorized to finance the procurement of defense articles, defense services... by friendly foreign countries..."

Recovery of Costs

The FMS program must be managed at no cost to the USG (with certain exceptions specifically covered by law)

[§130104.A.1, SAMM]

FMS Non-Recurring Cost (NRC) Waivers

- **DoD must charge FMS customer a pro-rata share of NRC of R&D and Production for MDE [§21(e)(1)(B), AECA]**
  - **Similar *policy* requirement for DCS/FMS non-MDE was dropped in 1992**
- **In FY 78, reduction or waiver of charges is authorized for NATO, Australia, New Zealand, and Japan [§21(e)(2)(A), AECA]**
- **After FY 89, no NRC charges for fully FMFP-funded cases [§21(e)(1)(B), AECA]**
- **After FY 96, conditional waiver is authorized for other FMS cases if determined that:**
  - **a sale may be lost if NRC is imposed, or**
  - **economies of scale would reduce U.S. costs for such items, and savings would offset lost revenue [§21(e)(2)(B), AECA]**

Authorized Military Sales / Leases

To allied / friendly countries solely:

- **For internal security.**
- **For legitimate self-defense.**
- **To permit participation in regional / collective arrangements or measures consistent with the charter of the United Nations.**
- **To enable foreign military contribution to public works and civic action programs**

[§4, AECA]

Eligibility Requirements for FMS

- **Furnishing of defense articles / services must strengthen U.S. security & promote world peace.**
- **No retransfers without Presidential consent**
- **No use of articles / services for purposes other than for which furnished, unless consent of the President has first been obtained.**
- **Recipient to maintain security of such article**
- **Country or international organization must otherwise be eligible to purchase articles**

[§3, AECA]

End-Use Monitoring Program

- **President must establish an "end-use monitoring program" for articles and services transferred IAW the AECA or FAA.**
- **DoS "Blue Lantern" program standards are to be used in identifying high-risk exports.**
- **Designed to provide assurances that:**
  - **recipient is complying with USG end-use, third country transfer, and security requirements.**
- **Program is also to provide for end-use verification of sensitive technologies vulnerable to diversion or misuse.**

[§40A, AECA]

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FAA General Prohibitions

Security assistance funding is prohibited for countries which:

- **Consistently violate internationally recognized human rights. [§502(B)].**
- **Nationalize / expropriate U.S. property. [§620(e)]**
- **Are communist countries [§620 (f).]**
- **Sever diplomatic relations with the U.S. [§620(t)]**
- **Repeatedly provide support for international terrorism [§620(A)]**

Security Assistance and Human Rights

...No Security Assistance may be provided to any country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

[§502B, Foreign Assistance Act of 1961, as amended]

Internationally Recognized Human Rights

- **The right to be free from government violation of the integrity of the person**
  - **Torture**
  - **Cruel, inhuman or degrading treatment or punishment**
  - **Denial of fair public trial**
  - **Invasion of the home**
- **The right to enjoy civil and political liberties**
  - **Freedom of speech**
  - **The right to participate in government**
  - **The right to travel freely within and outside ones own country**
  - **The right to be free from discrimination based on race or sex**

Foreign Assistance and Human Rights

- **No funding for any security forces unit if SecState has credible evidence of gross violations of human rights by that unit, unless SecState reports to Congress that the country is taking effective measures to bring the responsible individual(s) of the unit to justice.**

- **Not to be construed to withhold funds from any security forces unit not involved.**

[§564, P.L. 106-113]

Annual Foreign Military Training Report

- **Submitted jointly by DoS and DoD NLT 31 Jan for the previous and current FYs.**
- **To include <u>for each training activity</u>: U.S. foreign policy justification and purpose, number of personnel trained, training location, U.S. units involved with operational benefits derived, and**
- **<u>For each country</u>: aggregate number of students trained and aggregate costs. [§656, FAA]**

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Terrorism-Associated Countries

Countries prohibited from receiving U.S. assistance

China (I) Syria (D/I) Sudan (D)

Cuba (D/I) Libya (D/I) Iraq (D/I)

Iran (D/I) N. Korea (D/I)

§507 (Direct) and §523 (Indirect), P.L. 106

Other Counter-Terrorism Actions

- **No funding to countries that provide:**
  - **Sanctuary from prosecution, or otherwise supports terrorism [§527, P.L. 106-113].**
  - **Lethal military equipment to a government determined to be a repeated supporter of terrorism [§549, P.L. 106-113].**

Other General Prohibitions

Security assistance funding is prohibited for a country which:

- **Prevents a U.S. person from participating in furnishing assistance on the basis of race, religion, national origin, or sex (§666, FAA, and §5, AECA)**
- **Deliver/receives nuclear materials or technology w/o appropriate international safeguards (§101-103, AECA)**
- **Intimidates or harasses individuals in the U.S. (§6, AECA)**
- **Has not taken adequate steps to halt drug trafficking (§490, FAA)**
- **Violates "Use" provisions governing transfers (§505 (d), FAA)**

Pakistan "Brown Amendment"

- **Amends Pressler Amendment [§620E (e), FAA] to allow:**
  - **Assistance other than military assistance,**
  - **Delivery of defense articles [less F-16s] contracted before 1 Oct 90,**
  - **Relief from accumulated storage costs**
  - **Reimburse any already paid storage costs**
  - **Return of previously-owned equipment [up to $25M] in CONUS for repair/upgrade**

§559, P.L. 104-107

Other General Prohibitions

Security assistance funding is prohibited for a country which:

- **Deposes elected head of government by military coup or decree (§508, P.L. 106-113)**
- **Is in default on loan repayments [§620(q), FAA, and §512, P.L. 106-113]**
- **Participates in economic boycott of Israel (§561-565, P.L. 102-236)**
- **Harbors indicted war criminals (§566, P.L. 106-113)**
- **Prohibits or restricts the provision of U.S. humanitarian assistance (§620I, FAA)**

Sanctions for Loan Arrearages

§620(q), FAA

- **Applies to repayment of any FAA loans which are in arrearage for over 6 months**
- **Suspends IMET, ESF, and MAP funding for new FMS cases**
- **Does not apply to FMFP assistance**
- **Presidential national interest waiver is authorized**
- **Narcotics-related funds for Bolivia, Colombia, and Peru are exempt**

Sanctions for Loan Arrearages (cont.)

§512, P.L. 106-113, (Brooke-Alexander Amendment)

- **Renewed annually in Foreign Operations Appropriations Act**
- **Applies to repayments of <u>any</u> foreign assistance loans which are in arrears for over 12 months**
- **Suspends IMET, ESF, and FMFP funding for new FMS cases**
- **No presidential waiver is authorized**
- **Does not apply to funding of narcotics-related activities in Colombia, Bolivia, and Peru**

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Anti-Boycott Act

- **“Anti-Economic Discrimination Act of 1994 (§§ 561-565, P.L. 102-236, 30 April 1994).**
- **Effective 30 April 1995: prohibits USG sales or leases of any defense articles or services to any country or international organization that maintains a policy or practice of:**
- **Sending letters to U.S. firms requesting compliance with, or soliciting information regarding the secondary or tertiary Arab economic boycott of Israel.**
- **A presidential waiver is authorized for a one year period.**
  - **Waiver may be extended for successive periods of one year**
  - **Waiver authority delegated to SECSTATE on 24 Apr 97.**

SECSTATE Determination of 30 April 1999

- **"No current boycott policy or practice:"**

  Bangladesh Djibouti Egypt Jordan Mauritania

  Morocco Nigeria Pakistan Somalia Sri Lanka

  Tanzania Tunisia Uganda

- **Grants waivers to 1 May 2000:**

  Algeria Bahrain Kuwait Lebanon

  Oman Qatar Saudi Arabia UAE Yemen

- **Countries subject to sales/lease prohibition: (No waivers granted)**

  Iran Iraq Libya Sudan Syria

Other General Prohibitions

Security assistance funding is prohibited for a country which:

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Annual Arms Sales Proposal Report ("Javits' Report"; §25(a)(1), AECA)

- **Required by Congress NLT 01 Feb each year**
- **Lists FMS/DCS sales eligible for approval during current calendar year.**
  - **Major weapons/weapons-related defense equipment greater than $7M**
  - **Any other weapons/weapons-related defense equipment greater than $25M**
- **Identifies "most likely" sales**
- **Classified report in two parts: FMS & DCS**
- **Generally, no notifications until submitted**

FMS Notification to Congress

- **Foreign Military Sales reporting threshold**
  - **$50M total case value**
  - **$14M [Major Defense Equipment (MDE)]**
  - **$200M design and construction services**
- **Congressional review period**
  - **NATO / Japan / Australia / New Zealand - 15 days**
  - **Other countries - 30 days (with 20 days informal advance notification)**
- **Congress can adopt joint resolution objecting to the sale.**

[§36(b)(1), AECA]

International Traffic in Arms Regulations (ITAR)

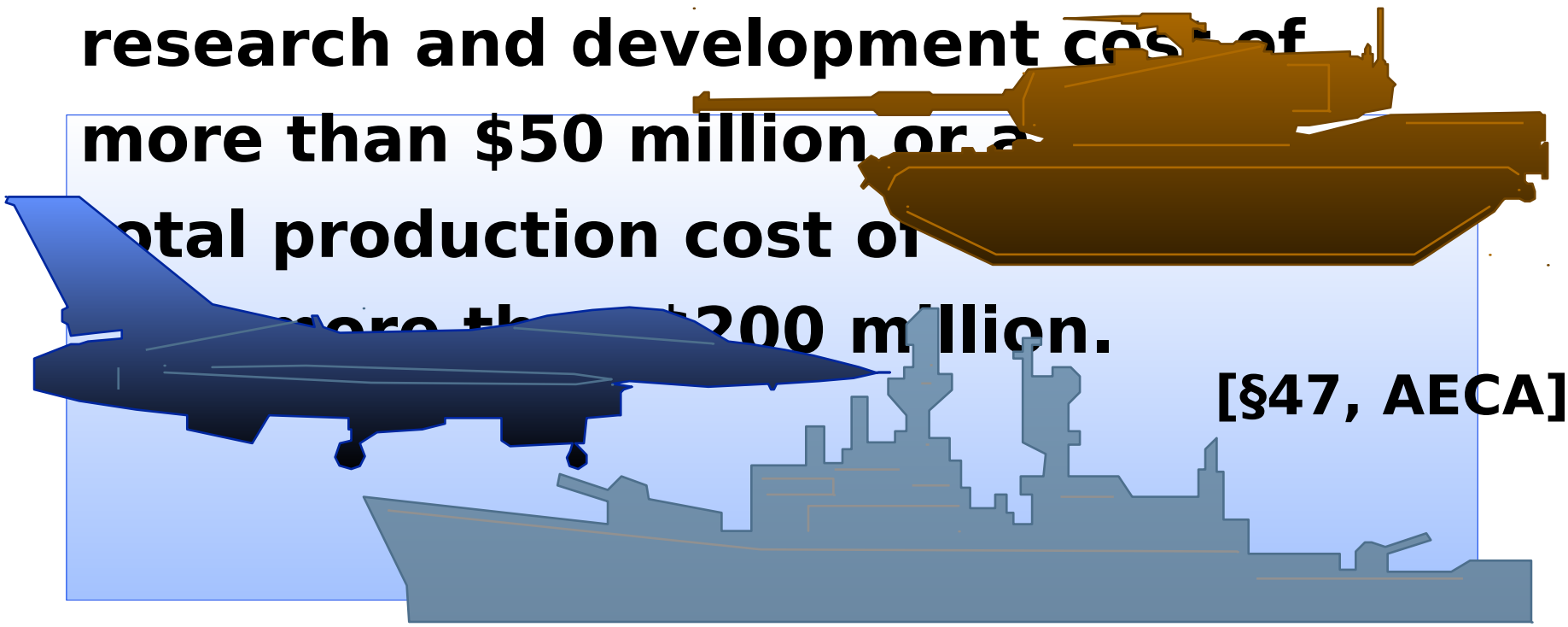
- **Provides registration / licensing requirements for the commercial export of defense articles, services, and related technical data.**
- **Includes the United States Munitions List (USML)**
- **Identifies "Significant Military Equipment" (SME)**
  - **SME requires special considerations because of "Their capacity for substantial military utility or capability"**
  - **SME also defined in §47(9), AECA**
- **Identified by an Asterisk (*) on the Munitions List**

[22 CFR 120-130]

Major Defense Equipment

...any item of Significant Military Equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million.

[§47, AECA]



DCS Notification to Congress

- **$50M total value or $14M (MDE)**
- **Congressional review period**
  - **NATO / Japan /Australia / New Zealand - 15 days**
  - **Other countries - 30 days**
- **Joint resolution objecting to sale**
- **President may require specific sales be made through FMS channels**

[§36(c), AECA]

Third Country Transfers

- **$50M total value or $14M (MDE)**
- **Congressional review period**
  - **NATO / Japan / Australia/New Zealand - 15 days**
  - **Other countries - 30 days**
- **Joint resolution objecting to transfer**
- **Exempted from congressional review**
  - **Maintenance, repair, or overhaul services**
  - **NATO cooperative cross-servicing or lead nation procurement [if in §36(b) notification]**

[§3(d), AECA]

Third Country Transfers (cont.)

- **Presidential approval for transfer or change in end-use <u>is not required</u> if:**
  - **Article is incorporated as a component in a foreign defense article,**
  - **The recipient is the government of a NATO country, Japan, Australia, or New Zealand,**
  - **The recipient country is not designated as a supporter of international terrorism,**
  - **Article is not SME, required §36(b) notification, or identified for regulation as an MTCR item, <u>and</u>**
  - **USG is notified of the transfer NLT 30 days after transfer.**

[§3(b), AECA]

Leasing of Defense Articles

- **Authority**
  - **Compelling foreign policy or national security reasons**
  - **Articles, for the time, not needed for U.S. public use**
  - **Reimbursement of U.S. costs as required**
- **Lease Agreement**
  - **Fixed duration, not to exceed 5 years**
  - **U.S. may terminate at any time**

[§61-63, AECA]

Leasing of Defense Articles (Cont.)

- **Recipient to pay full cost**
  - **Depreciation (MOU lease agreement)**
  - **PCH&T and repair (FMS Case)**
- **Exceptions to full cost requirement**
  - **Cooperative R & D**
  - **Combined exercises**
  - **C-E interface projects**
  - **With Presidential determination, beyond three-quarters of normal life**

Leasing of Defense Articles (Cont.)

- **Congressional notification**
  - **Required for all leases of one year or longer**
  - **$14M/$50M subject to joint resolution objection**
  - **Review period before entering into or renewing lease:**
    - **NATO/Japan/Australia/New Zealand - 15 days**
    - **Other countries - 30 days**
- **Replacement cost if lost or destroyed**
  - **“replacement cost” if to be replaced**
  - **“ actual value” if not to be replaced**

Commercial Leasing with FMFP

- **FMFP can be used for:**
  - **Commercial lease**
  - **Commercial lease with option to buy**
- **Conditions include:**
  - **Presidential determination there is compelling foreign policy or national security reason for lease instead of FMS sale**
  - **NATO and major non-NATO allies only**
  - **Non-MDE only, except for:**
    - **Helicopters and other aircraft having possible civilian application**

[§528, P.L. 106-1

Technology Sensitivity and Capability Enhancements

- **Special congressional notification requirements**
- **Applies to previously notified FMS cases and DCS contracts when there has been a subsequent enhancement / upgrade of:**
  - **sensitivity of technology, or**
  - **capability of defense article, equipment or service**
- **Special Report Requirements:**
  - **submission at least 45 days before delivery**
  - **must include description and significance of enhancement/ upgrade and justification for improvements**
- **New numbered certification report required when cost of enhancements / upgrades exceeds:**
  - **$14M (MDE), $50M (total), $200M (Design & Construction)**

[§36(b)(5) and §36(c)(4), AECA]

Return and Exchange of Defense Articles

- **Allows "Return and Exchange" as well as "Return and Repair."**
- **DoD may acquire a repairable defense article if:**
  - **Article was originally transferred IAW the AECA, is not an end-item, and is in exchange for an article of the same type in the DoD inventory.**
- **Limitations for the repairable exchange include:**
  - **DoD is accepting the article for transfer via FMS to another country and the case funding is sufficient for the transfer.**
  - **Recipient country will pay total cost associated with the repair and replacement transaction plus admin charge .**

[§21(l), AECA]

Return of Defense Articles

- **Allows “Buybacks.”**
- **DoD may accept the return of a defense article if:**
  - **Article was previously transferred IAW the AECA, is not SME, and is fully functioning without need of repair or rehab.**
- **Limitations for the return include:**
  - **DoD has a requirement for the article, and has funding authorized and appropriated for this purpose, or**
  - **DoD is accepting the article for transfer via FMS to another country and the case funding is sufficient for the transfer.**
  - **Upon acquisition and acceptance by the USG, the FMS account of the providing country will be credited .**

[§21(m), AECA]

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Missile-Related Legislation

- **Prohibition on sale, lease, or grant of Stinger MANPAD missile systems to any country bordering the Persian Gulf, except Bahrain.**
- **Introduced in FY 1988**
  - **Reflecting Congressional concerns**
  - **Accompanied by extensive DoD-initiated security controls for storage, usage, and periodic inventories (§20301.K, SAMM)**
- **Renewed annually in Foreign Operations Appropriations Act**
  - **Currently, §530, P.L. 106-113**

Depleted Uranium (M-833) Anti-Tank Shells

- **Cash or credit-funded FMS or DCS sales of M-833 or comparable anti-tank DU rounds are prohibited except to:**
  - **NATO countries,**
  - **Major non-NATO allied countries,**
  - **Taiwan, or**
  - **Any country for which the President issues a national security interest waiver.**

[§620G, FAA]

Major Non-NATO Allies

- **Includes Argentina, Australia, Egypt, Israel, Japan, Jordan, Republic of Korea, and New Zealand.**

- **With 30 days prior notification to Congress, the President can either add or delete a country to this listing.**

[§517, FAA]

Major Non-NATO Allies

- **Statutory Benefits Include:**
  - **Limited eligibility for priority delivery of EDA**
  - **Stockpiling of U.S. defense articles**
  - **Purchase of depleted uranium anti-tank shells**
  - **Participation in cooperative research and development programs**
  - **Limited eligibility for Defense Export Loan Guarantee program**
  - **Use of FMFP for commercial leasing**

Defense Export Loan Guarantees

- **P.L. 104-106 requires SECDEF to establish a program to issue loan guarantees up to $15B total for FMS, DCS, and leases of defense articles/services**
- **Commercial lenders would be assured against losses of principal/interest and thus would likely provide favorable interest**
- **Program eligible countries include:**
  - **NATO and Major Non-NATO Allied (designated before 31 Mar 95) countries**
  - **Central European Countries with democratic governments**
  - **Non-communist Asian countries that are members of APEC**

Anti-Personnel Landmine Transfer Moratorium

- **Extends moratorium on the sale, transfer, or export of such landmines from 23 Oct 92 to 22 Oct 03**
- **U.S. Policy: Seek verifiable international agreements to prohibit the sale, transfer, and export of these weapons, and to limit their manufacture, possession, and use**

  [§553, P.L. 106-113]

Landmine Clearance

- **Clearing of landmines**
  - **During FY 2000, §23, AECA, authority for FMFP may be used for landmine clearance purposes, but the funding source is to be *Nonproliferation, anti-terrorism, demining, and related* (NADR) *programs* account [$40M "should be made available"].**

    [Title II, P.L. 106-113]
- **FY 2000 grant of demining equipment**
  - **For humanitarian purposes**
  - **Available from USAID or State Dept [§553, P.L. 106-113]**

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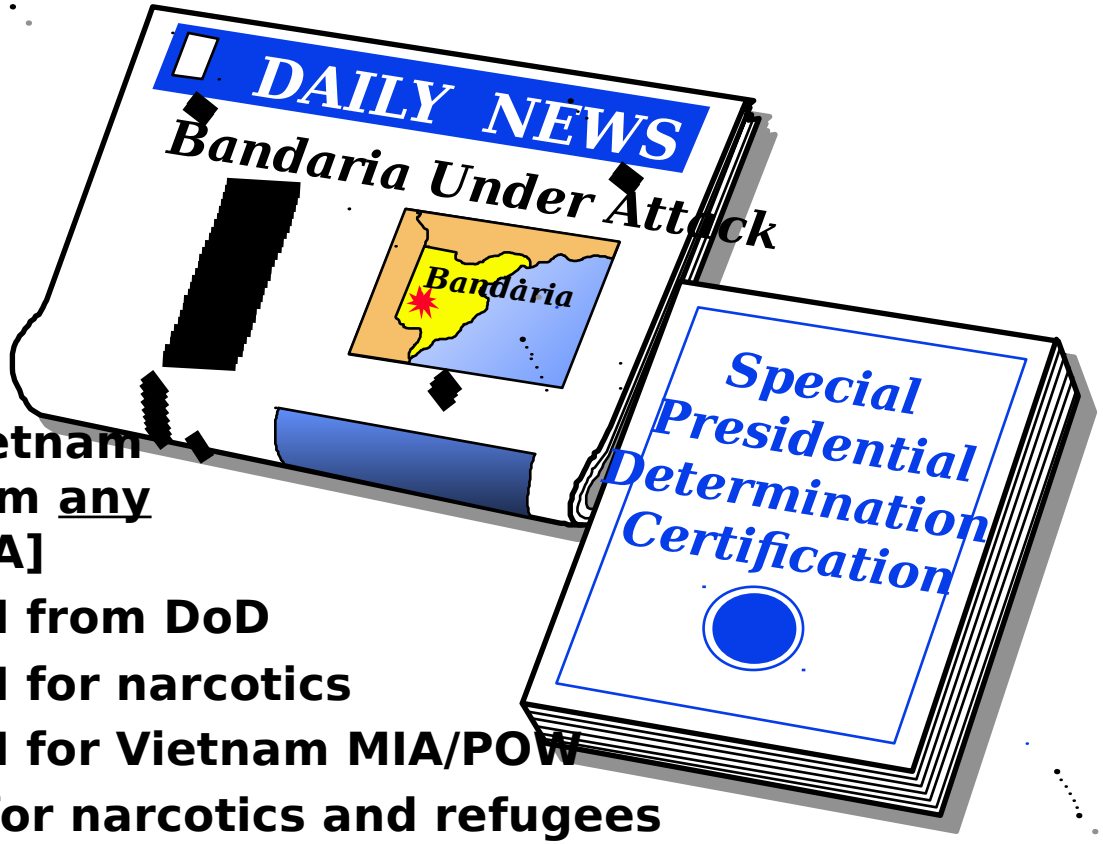
Emergency Crisis Management

- §506, FAA / 1961 "Special Authority"
- Permits drawdown of articles from US stocks, and provision for services and training
- Requires presidential determinati report to Congress that:
  - An unforeseen emergency exists
  - Requires immediate military assistance
  - Cannot immediately meet requirement under any other statutory authority

Emergency Crisis Management (cont.)

- **$100M annual authority for military assistance from DoD. [§506(a)(1),FAA]**
- **$150M annual authority for narcotics, refugee, natural disaster, and Vietnam MIA/POW assistance from any agency. [§506(a),(2), FAA]**
  - **Not more than $75M from DoD**
  - **Not more than $75M for narcotics**
  - **Not more than $15M for Vietnam MIA/POW**
  - **15-day notification for narcotics and refugees**



FAA, §506 (a) Drawdown Authority

	§506(a) (1)	§506(a) (2)
FYs 90-95	$247.5m Total	$273m Total
FY 96	$10m (Frontline States)	$85m (Israel-10m, Carib-75m)
FY 97	$0	$67m (Mex-37m, Kurdson Guam-10m, Col/Ven/Peru/E. Carib-20m)
FY 98	$58m (W.Africa-3m, E.Timor-55m)	$75m (Andean/Carib Countries)
FY 99	$0	$147.55m (Hurricane Mitch-75m, C/N-Iraq-72.55m)
TOTAL	$963.05M	(FY 90 - FY 99)

Special Drawdowns for FY 2000

- **$97M for Iraqi Democratic Opposition Organizations [NGOs] [§4(a)(2), P.L. 105-338, 31 Oct 98, Iraq Liberation Act of 98]**
- **$30M for War Crimes Tribunals [§552, P.L. 106-113]**
- **Not less than $4M for Tunisia -- to count towards meeting $7M FMFP earmark [Title III, P.L. 106-113]**

Emergency Crisis Management (cont.)

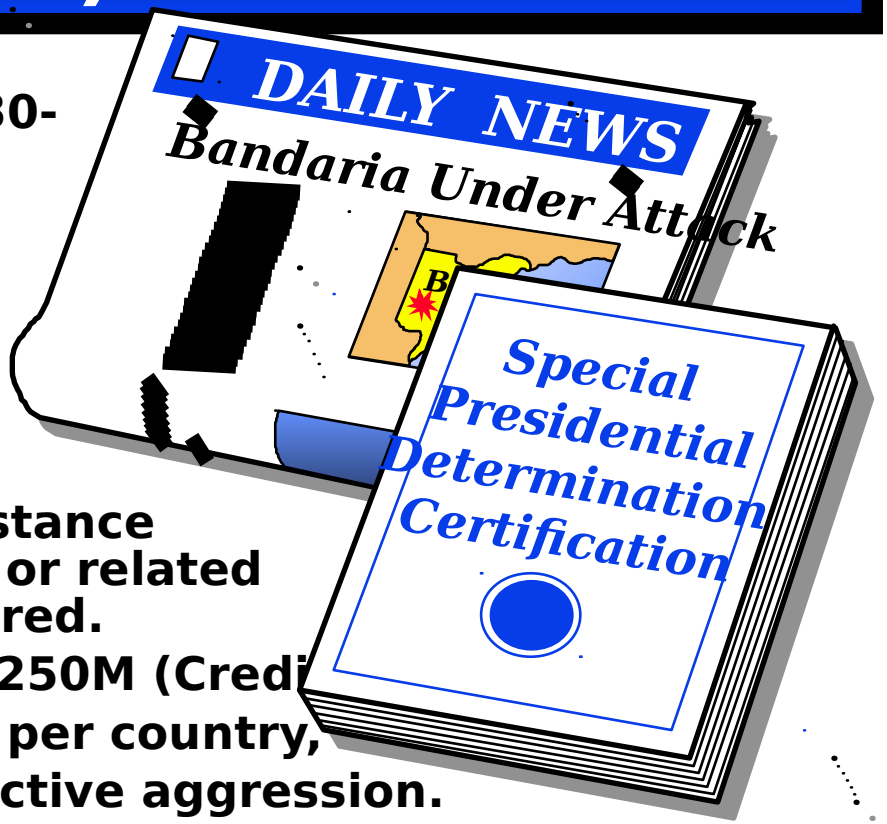
- $25M annually from any agency for unforeseen PKO emergencies. [§552(c)(2), FAA]

- Delayed FMS payment
  - Until delivery. [§21(d), AECA]
  - 120 days after delivery. [§22(d), AECA]

Emergency Crisis Management (cont.)

- **Presidential waiver of AECA 15/30-day congressional review for FMS [§36(b)], DCS [§36(c)], third country transfers [§3(d)], and leases [§62(b)].**

- **Special Authority [§614, FAA]**
  - **President may authorize assistance without regard to FAA, AECA, or related laws; notification is still required.**
  - **Worldwide, annual ceilings: $250M (Credi Grants), $750M (Cash); $50M per country, but up to $500M if victim of active aggression.**
  - **Does not create additional monies (current appropriations)**



S.A. In Operations
Desert Shield / Storm

- **Over 350 new FMS cases valued at $12B**
- **$130M in SDAF equipment furnished**
- **$225M in equipment drawdowns delivered**
- **3rd country transfer procedures streamlined**
- **Pre-conflict equipment sales and military training aided coalition forces**

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Excess Defense Articles

- **FMS sale at reduced price [§21, AECA]**
- **Grant transfer [§516, FAA]**
  - **For any country justified for such assistance**
    - **Countries identified in the CP for the fiscal year**
  - **Determined preferable over sale because of benefit to U.S. foreign policy**
  - **Presidentially determined to have no adverse effect on U.S. marketing**
  - **30 day notification for SME or articles originally valued at $7M or more**

Grant EDA (continued)

- **During FY00-04, the traditional 7:10 Greece/Turkey ratio must be maintained**
- **Delivery (transportation) priority for Portugal, Greece, Turkey, Israel, and Egypt**
- **USCG EDA eligible for transfer**
- **Total aggregate current value transferred annually cannot exceed $425M after FY96**

Grant EDA (continued)

- **Normally, DoD funding will not be used for the transfer.**
- **However, during FY00/01, DoD funds may be used for PCH&T during transfer of grant EDA to the PfP and SEED Act eligible countries of:**

Albania
Bosnia-Herzegovina
Bulgaria
Croatia
Macedonia [FYROM]
Romania
Serbia and Montenegro

[§1211, P.L. 106-113]

Grant EDA (continued)

- **Also, during FY00/01, DoD funds may be used for PCH&T during the transfer of grant EDA to:**

Estonia	**Kyrgyzstan**	**Poland**
Georgia	**Latvia**	**Slovakia**
Hungary	**Lithuania**	**Ukraine**
Kazakhstan	**Moldova**	**Uzbekistan**

[§1212, P.L. 106-113]

Grant EDA (continued)

- **Additionally, PCH&T can be waived (DoD-funded) when:**
  - **Determined to be in U.S. national interest,**
  - **For a developing country receiving less than $10M in FMFP and IMET for the year,**
  - **Transfer does not exceed 25,000 lbs, and**
  - **Completed on space-available basis.**

[§516(e)(1), FAA]

Conditions of Eligibility - Grants

- **No defense articles or related training or other defense service shall be furnished to any country on a grant basis unless the country agrees to the following "use" provisions:**
  - **Limits use to government officers, employees, and agents**
  - **Does not permit unauthorized transfers**
  - **Does not permit use for purposes other than those for which furnished**
  - **Maintains required security**
  - **Will permit observation and furnish information**
  - **Returns equipment to the U.S. when no longer needed**

[§505a, FAA]

Lesson Summary

- General Constitutional/Legislative Authorities
- U.S. Foreign Policy and the CATP
- Sanction Authorities
- Congressional Notification Requirements
- Weapons-Specific Restrictions
- Crisis Action Authorities
- Excess Defense Articles

Penalties for AECA Violations

- **Scope:**
  - **Applies to "every person… who engages in…manufacturing, exporting, or importing any defense article or defense service" on the U.S. munitions list.**
  - **Violations:**
  - **Willful violations of AECA registration or license rules/ regulations**
  - **Willful untrue statement of a material fact on registration / license applications**
  - **Willful omission of a material fact from a registration / license application**
- **Criminal Penalties:**
  - **Not more than $1,000,000 for each violation, imprisonment for not more than 10 years, or both**
- **Civil Penalty**
  - **Not more than $500,000 for each violation [§38, AECA]**

“Foreign Corrupt Practices Act of 1977”

- **Scope:**
  - **Applies to any domestic firm engaged in business with a foreign entity, and any officer, director, employee, agent, or stockholder of such a domestic firm.**
  - **Violations:**
  - **Use of mail, or other instrument of interstate commerce, to offer money payment, gift, etc., to any foreign official, political party, political candidate, or other foreign person to:**
  - **Influence any act/decision in violation of official capacity; or to**
    - **Induce such official, etc., to affect/influence any act/decision of his government, for purpose of:**
    - **Assisting the domestic firm in obtaining/retaining business with a foreign government**

	Criminal Penalties	Civil Penalties
Domestic Firm	$2,000,000	$10,000
Officer, director, employee, agent or stockholder	$100,000 5 years	$10,000